IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 16TH AUGUST 2007 / 25TH SRAVANA 1929

Bail Appl..No. 4815 of 2007()

CRIME NO.415/2007 OF MATTANCHERY POLICE STATION

: PETITIONER/ACCUSED

JOGALEENA,
PROPRIETOR,M/S LEE ENTERPRISES,
CHULLICKAL, COCHIN.

BY ADV. SRI.K.MOHANAKANNAN

RESPONDENTS: COMPLAINANT

STATE OF KERALA REO. BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
REPRESENTING STATION HOUSE OFFICER,
MATTANCHERY POLICE STATION,
COCHIN.

BY PUBLIC PROSECUTOR SRI.JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 16/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

B.A.No.4815 of 2007

Dated this the 16th day of August, 2007

ORDER

Application for anticipatory bail. The petitioner, a woman, faces allegations, inter alia, under Sections 10 and 24 of the Emigration Act and Sections 406 & 420 I.P.C. The crux of the allegations against the petitioner as are revealed from the case diary which has been perused by me is that she had promised the two persons-the victims, jobs abroad and had induced them to part with huge amounts of money as consideration for such visas. There were actually taken for a ride. No job was given to them as promised. There were sent not to the country in which they were promised job. They were obliged later to complain before the Protector of emigrants and the complaint has been forwarded to the police by the said official. Crime has been registered. Investigation is in progress.

2. According to the petitioner, she is absolutely innocent. She had not performed anything that is objectionable. She, it is submitted, is only running a travel agency. She had only arranged for travel tickets for the alleged victim. In these circumstances, it is submitted that no valid allegations can be raised against the petitioner. The petitioner raises yet another contention that an

identical complaint was filed by one of the victims before the Pavaratty police. The petitioner was summoned there and no other action was taken at the said police station.

3. The learned Public Prosecutor opposes the application. The learned Public Prosecutor submits that the investigation conducted so far clearly points to the guilt of the petitioner. The petitioner had induced the victims to part with money. She does not have the requisite authority to transact such business under the Emigration Act. She had misled the victims to believe that she is duly competent to engage herself in such business and after inducing them to part with money the unfortunate victims have been dealt with unfairly by the petitioner. In these circumstances, anticipatory bail may not be granted to the petitioner, it is submitted. It is further urged that against the petitioner, another similar crime has also been registered and the same is under investigation.

4. I have considered all the relevant inputs. In the nature of the contentions raised, the case diary was called and perused by me. I find merit in the submission of the learned Public Prosecutor that the victims had not pursued their complaint before the Pavatty police station in as much as they had lodged the complaint before the Protector of Emigrants and it is on that complaint that the present

crime has been registered. It is not the case of anyone that Pavatty Police had registered a case against the petitioner. I do not find any features in this case which would justify the invocation of the extraordinary equitable discretion under Section 438 Cr.P.C. It is for the petitioner to appear before the Investigating Officer or the learned Magistrate and then seek regular bail in the ordinary course.

5. This application is, in these circumstances, dismissed, but I may hasten to observe that if the petitioner surrenders before the Investigating Officer or the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously.

(R.BASANT, JUDGE)

rtr/-